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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/695,717	10/29/2003	Craig John Simonds	201-1113	5583
28415	7590	07/25/2005	EXAMINER	
PRICE, HENEVELD, COOPER, DEWITT & LITTON, LLP 695 KENMOOR S.E. P. O. BOX 2567 GRAND RAPIDS, MI 49501-2567			LIEU, JULIE BICHNGOC	
			ART UNIT	PAPER NUMBER
			2636	

DATE MAILED: 07/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/695,717

Applicant(s)

SIMONDS ET AL.

Examiner

Julie Lieu

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 27 January 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☐ Claim(s) \_\_\_\_\_ is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-27 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>1/15, 12/9, 2/22, 4/5/05</u> | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Specification*

1. The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-8, 10-19, 21-25, and 27 are rejected under 35 U.S.C. 102(b) as being anticipated by COMDEX, Mercedes-Benz Article (cited by the applicant).

#### Claim 1:

COMDEX discloses in its article (Nov. 12, 2001) a DriveBy InfoFueling system for providing remote data to a vehicle comprising:

- a. An off-board data source (GPS provider system);

b. A compute platform (a GPS provider) for accessing the data source to acquire information and generating a stream of data (navigational data) as a function of time and location of the vehicle;

c. A data communication link for communicating data between the off-board data source and the vehicle wherein the stream of data (navigation information) is applied to the vehicle for use onboard the vehicle.

Claim 2:

The system disclose in the article comprises a source (GPS transceiver) for supplying the location of the vehicle.

Claim 3:

In COMDEX the location of the vehicle is an expected destination.

Claim 4:

The compute platform (DriveBy InfoFueling) is located remote from the vehicle.

Claim 5:

The vehicle (Mercedes-Benz) comprises an onboard data communication port for receiving the supplied stream of data.

Claim 6:

The compute platform in COMDEX generates the stream of data in response to receiving a data request from the vehicle.

Claim 7:

In COMDEX, the stream of data is communicated to the vehicle via wireless communication.

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Claim 8:

It is inherent that vehicle disclosed in COMDEX a data storage device located on the vehicle for storing the stream of data received at the vehicle.

Claim 10:

The stream of data is determined as a function of travel distance from the location of the vehicle. For example, the travel distance is provided in the direction navigation.

Claim 11:

The stream of data in COMDEX contains information having a resolution based on time and location of the vehicle.

Claim 12:

The system disclosed in COMDEX further includes a transceiver located at a fueling station, wherein the transceiver provides communication between the vehicle and the off-board supplier.

Claim 13:

COMDEX discloses in its article (Nov. 12, 2001) a DriveBy InfoFueling system for providing remote data to a vehicle comprising:

- a. An off-board data source (GPS provider system);
- b. a distribution station (DriveBy Fueling station) remote from the vehicle and in data communication with the off-board data source, said distribution station comprising a transceiver for communicating with the vehicle;

- c. A compute platform (a GPS provider) for accessing the data source to acquire information and generating a stream of data (navigational data) as a function of time and location of the vehicle;
- d. A data communication link for communicating data between the off-board data source and the vehicle wherein the stream of data (navigation information) is applied to the vehicle for use onboard the vehicle.

Claim 14:

The distribution station disclosed in COMDEX comprises a fueling station.

Claim 15:

The system in COMDEX further comprises a position-determining device (GPS receiver) for determining the position of the vehicle.

Claim 16:

The vehicle in COMDEX comprises an onboard data communication port for receiving the supplied stream of data.

Claim 17:

COMDEX discloses method of supplying data from an off-board data supplier to an onboard

device on a vehicle, said method comprising the steps of:

- a. acquiring data communication between an off-board data supplier and a vehicle;
- b. receiving a request for data from the vehicle (at GPS transceiver);
- c. determining a location of the vehicle;

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- d. determining a time reading (inherent since the GPS navigator provides ; and
- e. supplying data to the vehicle as a function of the time and the location of the vehicle.

Claim 18:

The rejection of claim 18 recites the rejection of claim 10, except it is a method claim.

Claim 19:

The rejection of claim 19 recites the rejection of claim 11, except it is a method claim.

Claim 21:

In COMDEX the step of acquiring data communication between an off-board supplier and a vehicle comprises communicating with an external transceiver located at a fueling station.

See last two paragraphs on first page.

Claim 22:

The rejection of claim 22 recites the rejection of claim 3, except it is a method claim.

Claim 23:

COMDEX discloses method of supplying data from an off-board data supplier to an onboard device on a vehicle, said method comprising the steps of:

- a. acquiring data communication between an external transceiver located at a data distribution station and a vehicle;
- b. receiving a request for data from the vehicle (at GPS transceiver);
- c. determining a location of the vehicle;
- d. determining a time reading (inherent since the GPS navigator provides ; and

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- e. supplying data to the vehicle as a function of the time and the location of the vehicle.

Claim 24:

The rejection of claim 24 recites the rejection of claim 11, except it is a method claim.

Claim 25:

The data supplied the by data distribution station in COMDEX varies as a function of time. (That is, the navigation data would be varied as a function of time).

Claim 27:

The distribution station in COMDEX is a fueling station,

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later



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invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

5. Claims 9, 20, and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over COMDEX, Mercedes-Benz Article (cited by the applicant).

Claims 9, 20, and 26:

COMDEX fails to disclose that the storage device purges data as a function of time. Nevertheless, it would have been obvious to one skilled in the art to purge old archived data from data storage in COMDEX because it is desirable to make memory available for new information data.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Julie Lieu whose telephone number is 571-272-2978. The examiner can normally be reached on MaxiFlex.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey Hofsass can be reached on 571-272-2981. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'Julie Lieu', with a stylized, flowing script.

Julie Lieu  
Primary Examiner  
Art Unit 2636

Jul 23, 05